

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 633 of 1995

in

SPECIAL CIVIL APPLICATION No 3277 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL and  
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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HASANALI KHANBHAI & SONS

Versus

STATE OF GUJARAT  
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Appearance:

MR JR NANAVATI for Appellants  
MR KG SHETH, AGP, for Respondent No. 1, 2  
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CORAM : MR.JUSTICE J.M.PANCHAL and  
MR.JUSTICE A.L.DAVE

Date of decision: 02/11/1999

ORAL JUDGEMENT ( Per Panchal, J.)

#. By means of filing this appeal under Clause 15 of  
the Letters Patent, the appellants have challenged

judgment dated March 22, 1995, rendered by the learned Single Judge in Special Civil Application No.3277 of 1985, upholding validity of order dated August 16, 1984, passed by the State Government, by which the application made by appellant No.1 for grant of exemption under Section 20(1) of the Urban Land (Ceiling and Regulation) Act, 1976, was rejected.

#. Appellant No.1 was owner of survey No.199 situated at Mahika in Rajkot. The land owned by appellant No.1 admeasured 47014.19 sq. metres. Appellant No.1 agreed to sell the said land to appellant No.2 by a deed dated July 24, 1981. Thereafter, an application was made by the appellants under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 on July 8, 1981, seeking exemption from the provisions of the Act on the ground that the land was sold to the proposed co-operative housing society consisting of the members of weaker sections of the society. The said application was rejected by the State Government vide order dated August 16, 1984. That order was challenged by the appellants in Special Civil Application No.3277 of 1985. At the time of admitting the matter, the interim relief was granted restraining the Competent Authority and Additional Collector, Urban Land Ceiling, Rajkot, from proceeding with the case pending before him in respect of the land which was subject matter of Special Civil Application. The learned Single Judge dismissed the petition by judgment dated March 22, 1995 and ad-interim relief granted earlier was vacated. The order passed by the learned Single Judge in Special Civil Application No.3277 of 1985 has given rise to the present appeal.

#. Mr. K.G. Sheth, learned Assistant Government Pleader, has produced a statement dated November 2, 1999 signed by Mr. M.D. Manjaria, Deputy Mamlatdar and Executive Magistrate, Rajkot, who is working in the office of Competent Authority and Additional Collector, Urban Land Ceiling, Koti Compound, Rajkot. In the said statement, it is mentioned that with reference to land in question, proceedings upto Section 8(3) were completed and draft statement was prepared, but thereafter, no further action was taken and Government has not taken possession of any excess vacant land from the appellants. Along with the statement, Mr. Manjaria has also produced xerox copy of certain documents to substantiate what is stated by him in his statement dated November 2, 1999. The statement was prepared by Mr. Manjaria in the Court as he had remained personally present pursuant to the instructions sought by the learned Assistant Government

Pleader. The written statement made by Mr. M.D. Manjaria with xerox copy of the documents is ordered to be taken on the record of the case.

4. It may be mentioned that the Parliament has enacted the Urban Land (Ceiling and Regulation) Repealing Act, 1999, by which Urban Land (Ceiling and Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act before any Court, Tribunal or other authority shall abate. The proviso to the said section specifies that Section 4 shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the Competent Authority. The record does not indicate that possession of the land in question has been taken over by the State Government. On the contrary, as mentioned in the statement dated November 12, 1999 submitted by Mr. M.D. Manjaria, possession of the land is not taken over by the State Government. Under the circumstances, it will have to be held that the Letters Patent Appeal has abated. As the Letters Patent Appeal has abated, the same deserves to be disposed of accordingly.

#. For the foregoing reasons, it is held that the Letters Patent Appeal has abated. We make it clear that we have not pronounced upon legality or otherwise of the order which was passed by the State Government and which was subject matter of challenge by the appellants in the petition under Article 226 of the Constitution. It will be open to the appellants to point out to the Competent Authority that the proceedings have abated in view of the provisions of the Urban Land (Ceiling and Regulation) Repealing Act, 1999. The Letters Patent Appeal is, therefore, dismissed as having abated with no orders as to costs.

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